Supreme Court U.S.
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No. _____

IN

THE SUPREME COURT OF THE UNITED STATES OF AMERICA

Glenn J. Hopkins, Cindy S. Hopkins
Petitioners
VS
Northbrook Mobile Home Park Corporation,
Ron Cottrell, Sheila Cottrell,
Respondents.

ON PETITON FOR A WRIT OF CERTIORARI

FROM THE ILLINOIS 4TH DISTRICT
COURT OF APPEALS
Hopkins v Northbrook -2001-L-0227; NO.04-05-0435
Northbrook v Hopkins-2001-LM-2161, NO.04-05-0186

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QUESTIONS PRESENTED

-Issue I-

As to whether or not the Illinois State Courts misuse the state court's doctrine of Resjudicata in violation of the 14th Amendment when all prior filed state and federal claims in another state court civil action are dismissed on resjudicata grounds without a hearing on the merits when, under the comity rule and state law, the pending issues could not be raised as a defense to a retaliatory state court action under Forcible Entry and Detainer?

-Issue II-

As to whether or not the State Courts finding that Hopkins federal claims were "frivolous" and *improper grounds for any state court relief* under 735-ILCS-5/2-1401(f) was an exercise of state power in conflict with the Supremacy Clause, in re Ex Parte Young, justifying this Supreme Courts intervention for the protection of rights established by Federal law *that have been invalidated by the state courts of Illinois*, in re *Fidelity Fed. Sav. & Loan Assn.* v. *De la Cuesta,* 458 U. S. 141 (1982)?

-Issue III-

As to whether or not there is a violation of 42-USC-1983 and 42-USC-1986 by the State courts when *instate special interests* conspire to act under color of a state law and known judicial policy with the intent to use the states judicial process to confiscate property and invalidate applicable federal and state laws under color of a state court doctrine of Resjudicata, in re Collins v Harker Heights, 503 U.S.115(1992?

-Issue IV-

As to whether or not the victims of such a "*conspiracy*" would have a cause of action for relief in the federal courts under 42-USC-1983, or should the victims be restricted to what is now a useless petition in a state court, *creating a question of how to obtain relief from constitutional violations and enforcement of federal law* arising from this type of corruption of the state judicial process, in re California Motor Transport, 404 U.S. 512-513, thus justifying this Courts review, in re West Lynn Creamery v. Healy, 512 U.S. 186 (1994)?

-Issue V-

As to whether or not the state Courts have the constitutional power to arbitrarily *redefine* "*what is due process*" under the Supremacy clause when this U.S. Supreme Court has already clearly defined that Due process requires written notice be served by the States within a reasonable time to respond, In Re Gault, 387 U.S. 1, (1967)?

-Issue VI-

As to whether or not the state courts are required to provide post judgment relief when there has been a failure to serve notice by the State, in re Hudson v Palmer, 468 U.S. 517 (1984)?

-Issue VII-

As to whether or not there has been a failure to accommodate violation of Title II of the ADA, 42-USC Sec. 12132 when a state court neglects to serve notice of the dismissal of a Civil rights action upon a pro-se disabled litigant within the time allowed for filing an appeal, then refusing to grant relief and sanctioning the petitioner for seeking relief within the time allowed by law?

Issue VIII-

As to whether or not Hopkins action in the District Court on the federal claims pertaining to this action had diligently *suspended the tolling of the state statute of limitations under 28-USC-1367(d)* as it applies to the time for filing a petition for relief in the State Court in both actions under 735-ILCS-5/2-1401(f), in re JINKS V. RICHLAND COUNTY, 538 U.S. 456 (2003) and Hudson v Palmer, 468 U.S. 517 (1984))?

-Issue IX-

As to whether or not that if state courts engage in retaliatory type conduct towards a party who is opposing the judicial usurpation of state law rights, discrimination, and unlawful deprivation of property under federal law, there is a foreseeable denial of due process that undermines the intent and the purpose of the United States Constitution that is defeating *this Courts authority under the Supremacy clause to determine what is the national policy as the legislature of Illinois and Congress intended it should be*?

-Issue X-

As to whether or not a State Court abuses its power by refusing to hear a justified good faith attack on the constitutionality of a State's law and policy when proven that state "law" and associated policy was used by private parties to confiscate property and invalidate federal law in conflict with the Supremacy Clause, see Silkwood v Kerr-McGee Corp. 464 U.S. 238 (1984)?

-Issue XI-

As to whether or not when a Judge refuses to recuse themselves on Motion to do so when there is reasonable evidence of a prior conspiracy by private parties in the courts at issue, was a severe abuse of discretion after a complaint had been filed against them for Title II ADA discrimination and participation in a conspiracy to violate Civil rights in violation of 42-U.S.C.-1983, and is it reasonable to presume this refusal to recuse has precluded the fair and meaningful determination of these claims in violation of the 14th Amendment?

-Issue XII-

As to whether or not the Illinois Supreme Courts policy *that leases do not have to be valid to be enforced under the Forcible Entry and Detainer Act*, has unconstitutionally created conditions in the State Courts that arbitrarily invades and deprives all disabled mobile home tenants in Illinois of the fair and meaningful protection of State and Federal law in their civil rights and property in violation of the 14th Amendment?

-Issue XIII-

As to whether or not the State court was in error in finding that denial of a court reporter to a memory impaired disabled person in this case was not discrimination in violation of Title II of the ADA in re Tennessee v Lane?

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2. *ALDEN V. MAINE, 527 U.S. 706 (1999). Page 18
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4. *Bank of Nova Scotia v. United States, 487 U.S. 250, 254-255 (1988) page 18
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7. Briscoe v Lahue, 460 U.S. 325 (1983) page 21
8.*California Motor Transport, 404 U.S. 512-513 page 26
9.* Caterpillar Inc. v. Williams, 482 U.S. 386, 392 (1987) page 13
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14. * Fidelity Fed. Sav. & Loan Assn. v. De la Cuesta, 458 U. S. 141 (1982) page 11
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29. *Parratt v. Taylor, 451 U.S. 527 (1981) page 10
30. * Pierson v Ray 386 U.S.547 (1967) page 21
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34. Screws v. United States, 325 U.S. 91 (1945) page 11
35. *Silkwood v Kerr-McGee Corp. 464 U.S. 238 page 11
36. *Soldal v. Cook County, Ill., 506 U.S. 56 page 12
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38. Testa v Katt, 330 U.S. 386 (1947) page 12
39. *Tumey v Ohio, 273U.S. 510 page 11
40. Washington v. Davis, 426 U.S. 229, 239-248,page 20
41. *Wilson v Garcia 471 U.S. 261 Page 20
42. *West Lynn Creamery v. Healy, 512 U.S. 186, page 21

Constitutional Issues

Article I- Commerce Clause
Article VI-Supremacy Clause

Amendment I

Amendment XIV

Federal Statutory provisions in Question

Title III of the Americans with Disabilities act, 42-U.S.C. Sec. 12182. - Prohibition of discrimination by public accommodations

Fair Housing Act 42-U.S.C. **Sec.** Sec. 3602. -3604, 3605, 3606, or 3617 of this title.

42-USC-1981- Equal rights under the law

42-USC-1983 Civil action for deprivation of rights: 42-USC§1986. Action for neglect to prevent

28-USC§-1367(c) and (d)

28-USC§-1343 **Civil rights and elective franchise**

STATE STATUTES IN QUESTION:

735 ILCS 5/2-619: Involuntary dismissal based upon certain defects or defenses. (a) Defendant may, within the time for pleading, file a motion for dismissal of the action or for other appropriate relief upon any of the following grounds. If the grounds do not appear on the face of the pleading attacked the motion shall be supported by affidavit: (3) That there is another action pending between the same parties for the same cause. (4)That the cause of action is barred by a prior judgment

Forcible Entry, (735 ILCS 5/9-102) When action may be maintained. (a) The person entitled to the possession of lands or tenements may be restored thereto under any of the following circumstances: (4) When any lessee of the lands or tenements, or any person holding under such lessee, holds possession without right after the termination of the lease or tenancy by its own limitation, condition or terms, or by notice to quit or otherwise.

(Forcible Entry 735 ILCS 5/9-106). Pleadings and evidence. On complaint by the party or parties entitled to the possession of such premises being filed in the circuit court for the county where such premises are situated, stating that such party is entitled to the possession of such premises (describing the same with reasonable certainty), and that the defendant (naming the defendant) unlawfully withholds the possession thereof from

him, her or them, the clerk of the court shall issue a summons. *The defendant may under a general denial of the allegations of the complaint offer in evidence any matter in defense of the action. Except as otherwise provided in Section 9-120, no matters not germane to the distinctive purpose of the proceeding shall be introduced by joinder, counterclaim or otherwise*. However, a claim for rent may be joined in the complaint, and judgment may be entered for the amount of rent found due.

Mobile Home Park Landlord and Tenants Rights Act, (765 ILCS 745/1) Sec. 1. Applicability. This Act shall regulate and determine legal rights, remedies and obligations of the parties to any lease of a mobile home or mobile home lot in a mobile home park containing five or more mobile homes within this State. Any lease, written or oral, shall be unenforceable insofar as any provision thereof conflicts with any provision of this Act.

Mobile Home Park Landlord and Tenants Rights Act (765 ILCS 745/6) Sec. 6. Obligation of Park Owner to Offer Written Lease. No person shall offer a mobile home or lot for rent or sale in a mobile home park without having first exhibited to the prospective tenant or purchaser a copy of the lease applicable to the respective mobile home park.

(a) The park owner shall be required to offer to each present and future tenant a written lease for a term of not less than 12 months, unless the parties agree to a different term subject to existing leases which shall be continued pursuant to their terms.

(c) The park owner shall notify his tenants in writing not later than 30 days after the effective date of this Act, that a written lease shall be available to the tenant and that such lease is being offered in compliance with and will conform to the requirements of this Act.

Mobile Home Park Landlord and Tenants Rights Act 765 ILCS 745/12: Sec. 12. Lease prohibitions.

No lease hereafter executed or Currently existing between a park owner and tenant in a mobile home park in this State shall contain any provision: (a) Permitting the park owner to charge a penalty fee for late payment of rent without allowing a tenant a minimum of 5 days beyond the date the rent is due in which to remit such payment;...(d) Permitting the park owner to transfer, or move, a mobile home to a different lot, including a different lot in the same mobile home park, during the term of the lease..

Mobile Home Park Landlord and Tenants Rights Act 765 ILCS 745/14: Rules and regulations of park. Rules and regulations promulgated and adopted by the park owner are enforceable against a tenant only if: (a) A copy of **all** rules and regulations was delivered by the park owner to the tenant **prior** to his signing the lease; (b) The purpose of such rules and regulations is to promote the Convenience, safety and welfare of the tenants, preserve park property from damage or to fairly distribute park services and facilities to the tenants; (c) They are reasonably related to the purpose for

which adopted; (d)They apply *to all tenants in a fair manner.*

Mobile Home Park Landlord and Tenants Rights Act 765 ILCS 745/16. Improper grounds for eviction. The following conduct by a tenant shall not constitute grounds for eviction or termination of the lease, nor shall a judgment for possession of the premises be entered against a tenant: (a) As a reprisal for the tenant's effort to secure or enforce any rights under the lease or the laws of the State of Illinois, or its governmental subdivisions of the United States; (b) As a reprisal for the tenant's good faith complaint to a governmental authority of the park owner's alleged violation of any health or safety law, regulation, code or ordinance, or State law or regulation which has as its objective the regulation of premises used for dwelling purposes;

Mobile Home Park Landlord and Tenants Rights Act 765 ILCS 745/21: Sec. 21. Remedies, Tenants. If the park owner fails to substantially conform to the lease agreement or fails to substantially comply with any code, statute, ordinance or regulation governing the operation of a mobile home park or the maintenance of the premises, the tenant may, on written notice to the park owner, terminate the lease and vacate the premises at any time during the first 30 days of occupancy After the expiration of said 30 days the tenant may terminate the lease only if he has remained in possession in reliance upon the park owner's written promise to correct all or any part

of the condition which would justify termination by the tenant under this Section. Any condition which deprives the tenant of substantial benefit and enjoyment which the park owner shall fail to remedy within 30 days after having received notice in writing of such condition shall constitute grounds for the tenant to terminate the lease and vacate the premises. No such notice shall be required where the condition renders the mobile home uninhabitable or poses an imminent threat to the health, welfare and safety of any occupant. If such condition was proximately caused by the willful or negligent act or omission of the park owner, the tenant may recover any damages sustained as a result of the condition including, but not limited to, reasonable expenditures necessary to obtain adequate substitute housing while the mobile home is uninhabitable. The tenant may sue to enforce all Sections of this Act and the court may award damages or grant any injunctive or other relief.

Consumer Fraud and unfair and Deceptive Business Practices Act; 815 ILCS 505/1: Sec. 1.

(c) The term "person" includes any natural person or his legal representative, partnership, corporation (domestic and foreign), company, trust, business entity or association, and any agent, employee, salesman, partner, officer, director, member, stockholder, associate, trustee or cestui que trust thereof; (d) The term "sale" includes any sale, offer for sale, or attempt to sell any merchandise for cash or on credit... (e) The term "consumer"

means any person who purchases or contracts for the purchase of merchandise not for resale in the ordinary course of his trade or business but for his use or that of a member of his household... (f) The terms "trade" and "commerce" mean the advertising, offering for sale, sale, or distribution of any services and any property, tangible or intangible, real, personal or mixed, and any other article, commodity, or thing of value wherever situated, and shall include any trade or commerce directly or indirectly affecting the people of this State.

Consumer Fraud and unfair and Deceptive Business Practices Act 815 ILCS 505/2 Unfair methods of competition and unfair or deceptive acts or practices, including but not limited to the use or employment of any deception fraud, false pretense, false promise, misrepresentation or the concealment, suppression or omission of any material fact, with intent that others rely upon the concealment, suppression or omission of such material fact, or the use or employment of any practice described in Section 2 of the "Uniform Deceptive Trade Practices Act", approved August 5, 1965, in the conduct of any trade or commerce are hereby declared unlawful whether any person has in fact been misled, deceived or damaged thereby. In construing this section consideration shall be given to the interpretations of the Federal Trade Commission and the federal courts relating to Section 5 (a) of the Federal Trade Commission Act.

735-ILCS-5/2-1401(f) ***Relief from judgments.***

(a) Relief from final orders and judgments, after 30 days from the entry thereof, may be had upon petition as provided in this Section. Writs of error coram nobis and coram vobis, bills of review and bills in the nature of bills of review are abolished. All relief heretofore obtainable and the grounds for such relief heretofore available, whether by any of the foregoing remedies or otherwise, shall be available in every case, by proceedings hereunder, regardless of the nature of the order or judgment from which relief is sought or of the proceedings in which it was entered.

(b) The petition must be filed in the same proceeding in which the order or judgment was entered but is not a continuation thereof. The petition must be supported by affidavit or other appropriate showing as to matters not of record. All parties to the petition shall be notified as provided by rule.

(c) Except as provided ... the petition must be filed not later than 2 years after the entry of the order or judgment. *Time during which the person seeking relief is under legal disability or duress or the ground for relief is fraudulently concealed shall be excluded in computing the period of 2 years.*

(d) The filing of a petition under this Section does not affect the order or judgment, or suspend its operation.

(f) Nothing contained in this Section affects any existing right to relief from a void order or judgment, or to employ any existing method to procure that relief.

-PRAYER-

Petitioners respectfully prays that a writ of Certiorari issue to review this cause, or in the alternative, a per curium Order to vacate the Judgment for sanctions and the judgments of the Illinois 7th Circuit Courts in re Hopkins v Northbrook - 2001-L-0227; and Northbrook v Hopkins-2001-LM-2161; and the subsequent Fourth District Appellate Court mandate, NO.04-05-0435, NO.04-05-0186, which the Illinois Supreme Court has refused to review.

-JURISDICTION-

The Jurisdiction of this Court to review the State Courts in re; NO.04-05-0435, NO.04-05-0186, is invoked under 28 U.S.C. 1257(a). The Jurisdiction of the Illinois Supreme Court was established under Federal law, 28 U.S.C. § 1367(d),. and state law under Illinois Supreme Court rules 301 and 315. Affidavit of Intent to Appeal filed April 25, 2006, The Illinois Supreme Court declined to review on September 27, 2006. Appeal was timely.

-STATEMENT OF THE CASE-

State law and state judicial policy has been employed by Private parties in the state Courts to invalidate applicable state and federal law and confiscate a disabled persons property. The state Courts found Hopkins claims of State law usurpation and federal civil rights violations were "frivolous,' and has issued sanctions in excess of $7.000 (seven thousand dollars),that is negating the intent and purpose of the 1st and the 14th Amendment in violation of the Supremacy Clause.

-Verified STATEMENT OF THE CASE FACTS -

(1.) Glenn J. Hopkins was a disabled Mobile home owner, and with his spouse, entered into a lease agreement for one of several available mobile home park lots owned by Respondent on March 24, 2001. Hopkins selected lot 73 on March 26, 2001, moved their mobile home into the park on March 29, 2001. (R.A. C000029, 38, and C000100, Index lines 2-7, and Hopkins v Northbrook, 2001-L-0227 Amended Complaint)

(2.) Northbrook retained control of the lease Documentation until Hopkins had moved the mobile home in, and subsequently thereafter modified the terms and conditions of the Hopkins original signed lease agreement from the Statutory 12 months as required under 765-ILCS-745/6, to seven months, and imposed handwritten conditions of continued tenancy that was specific only to Hopkins tenancy, without the prior knowledge or the consent of Hopkins, and thereafter served Hopkins a copy of this modified lease agreement on April 6, 2001, after Hopkins had moved in and had no funds to relocate. *There was no valid lease to the premises.* (R.A. C000100, Index lines 7-17 and Hopkins v Northbrook, 2001-L-0227 Amended Complaint S.R.A.C00059).

(3.) June rent was due June 1, 2001, and was paid on June 6, 2001. Northbrook thereafter demanded a late fee of $60.00 on June 10, 2001, claiming entitlement pursuant to terms of the lease, which Hopkins refused to pay, stating it was unlawful, and reported this matter to the Attorney General of Illinois. Northbrook canceled the skirting deal in

retaliation. (R.A. C000100, Index lines 17-21, C000101, index lines 6-9, and Hopkins v Northbrook, 2001-L-0227 Amended Complaint).

(4.) On June 27, 2001, Hopkins witnessed and reported to police an act of property damage on another tenant's property by Brandon Potts, an alleged business associate of Respondents operating Pine Ridge Mobile Home Sales. Potts then gave notice of eviction of Hopkins in retaliation for Hopkins calling the police, claiming the cause would be for not having painted the home in managements chosen color, not having skirting, and quoting the terms of the lease as if he were a party to them.[1] (R.A. C000101, Index lines 10-18, and Hopkins v Northbrook, 2001-L-0227 Amended Complaint S.R.A.C00068.)

(5.) Northbrook agents Ron and Sheila Cottrell subsequently that same day again demanded payment again of the late fee, then after it was refused, served verbal notice to move the home by the end of the month or Hopkins was to surrender title to their home[2], stating as cause the very same claims of failure to perform pursuant to terms of the lease as had Potts. (R.A. C000101, Index lines 19-24, and Hopkins v Northbrook, 2001-L-0227 Amended Complaint)

(6.) This verbal Notice of retaliatory eviction was followed by a written notice from the Council identified as Beth Wilkie on July 5, 2001 stating in

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[1] Potts has robbed, assaulted and battered Hopkins before when he managed another park, see C000269-272.

[2] Northbrook has used the Forcible entry action to obtain possession of the home, and demanded the title for "court costs".

writing the very same allegations. Note :The mobile home had been green and white tone when it was moved in, Northbrook had required it to be repainted solid gray, until they and Potts changed their minds[3], and then claimed the home had not been painted, and there was no skirting in that Northbrook breached an agreement to supply replacement skirting on June 10, 2001. Glenn Hopkins, a disabled person, unable to move his home, had such a severe anxiety attack that it caused a heart attack on July 11, 2001. (R.A. C000101, Index lines 24-28, and Hopkins v Northbrook, 2001-L-0227 Amended Complaint S.R.A.C00059)

(7.) Hopkins subsequently filed a Pro-Se Civil Action in the Seventh Circuit Court of Illinois for damages in excess of $50.000, and to enforce *allegedly protected* interests under both State and Federal laws against Northbrook on July 16, 2001. (R.A. C000101 Index line 30, C000102, index line 3)

(8.) While that action was pending hearing on a motion to amend and a preliminary Injunction for the protection of Hopkins property from an intervention action under the Forcible Entry and Detainer Act, Northbrook agents commenced dumping garbage and debris on Hopkins lot and the adjacent lot, threatening other tenants with eviction to intimidate witnesses, killing Hopkins dog "Buddie" by beating it to death while it was on a chain, and ordering wrecker services to seize Hopkins motor vehicles at night, thus repeatedly

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[3]one of many examples of Direct evidence of perjury the Appeals Court has "*objected to*," appendix c, page 43.

requiring police intervention to get them back, with three vehicles, a 1984 ford truck owned by Cindy Hopkins that was returned with sand in the oil pan that had destroyed it's engine, a 1989 Dodge Colt also owned by Cindy Hopkins (*to replace the truck*) that was returned without it's computer, and a 1985 Chevy Beretta that belonged to Serina Hopkins, (daughter) that was returned with a hole torn in its drivers side door and the transmission housing cracked, resulting in the total loss of the vehicles. (R.A. C000102, Index lines 4-5) (S.R.A.C00286)

(9.) Northbrook Council Manson, Lahr, and Beth Wilkie then brought a separate action for possession under color of the Illinois Code of Civil Procedures Forcible Entry and Detainer act, 735 ILCS 5/9-102/a (4) on November 2, 2001, which is the matter of Northbrook v Hopkins, 2001-LM-2161 that is also before this Court in this appeal. (R.A. C000001) Appendix B, H,

(10.) In that intervening action Hopkins, acting Pro-se, filed a combined Motion to dismiss under Illinois Code of Civil Procedures sections 2-619(3) and Section 2-615. These motions clearly disclosed that Northbrook was a defendant in a prior civil action brought by Hopkins as a disabled person entitled Hopkins v. Northbrook, 2001-L-0227 filed July 16, 2002, raising by Judicial Notice {That the action was under The Mobile Home Park Landlord and Tenants Rights Act, 765- ILCS-

745/1 et seq., The Consumer Fraud and Unfair Business practices Act 815-ILCS-505/2, and the Americans with Disabilities Act, 42-U.S.C. 12181.} Under Section 2-619(a) (3) Hopkins had claimed "That there is another action pending between the same parties for the same cause" which required that the second action between the same parties for the same cause was to be dismissed if a hearing of it would create a collateral estoppels bar to the prior filed cause, and disclosed under section 2-615 that Northbrook did not have a legitimate cause of action in that the lease was not valid, enumerating 5 specific provisions in the lease and its associated park rules that were in prima facie and unequivocal violation of the act, so that lease could not be enforced as a matter of law or equity under 765-ILCS-745/1. It was further alleged as clearly apparent that this second action was one of reprisal in violation of 765 ILCS 745/16, because filing a complaint in a Court meets (b) "As a reprisal for the tenant's good faith complaint to a governmental authority..." (R.A. C000102, Index lines 9-21)

(11.) Northbrook, represented in Northbrook v Hopkins 2001-LM-2161 by Beth Wilkie, with the assistance of Councils Manson and Nicholson who were also handling the first action, Hopkins v Northbrook 2001-L-0227, filed a response claiming Section 2-619(A) (3) did not apply to Forcible Entry actions as a matter of Illinois Supreme Court Policy, that the issue of validity of the lease and the park rules was properly matters

for their trial, stating a superior right of action. (R.A. C000102, Index lines 22-30, C000045-47).

(12.) Judge Shiffman, Trial Court of Northbrook v. Hopkins, 2001-LM-2161, while knowing Hopkins was impaired, refused to recuse himself, did not provide an attorney, denied Hopkins access to a Court reporter unless he could pay for it in advance. On December 20, Judge Shiffman denied the Motions to Dismiss without recording his reasons for his denial in the common law record. Hopkins recalls Judge Shiffman commenting that the issues of Federal disability law and the numerous state law violations of the Mobile Home Park Landlord and tenants Rights Act were not germane to this action of Forcible Entry, claiming that "*the lease did not have to be valid in order for Northbrook to bring action when the lease expired of its own limitations based on Fisher*. When Hopkins pointed out that this would result in dismissal of Hopkins action under Resjudicata, Judge Shiffman stated that "Hopkins was to take the issues of Northbrook's violations of law up with the other Court", Judge Shiffman citing People v Evans, *but not recording that fact in the record*. (R.A. C000103, Index lines 4-15)

(13.) A bench proceeding was held on January 2, 2002 with only the Court judge, Beth Wilkie, Sheila Cottrill, and Glenn Hopkins present. Hopkins issues related to the prior cause were precluded "as belonging to the other action" and not Germane, thus Hopkins could not "prove" his

affirmative defenses. Judgment was then entered for possession to Northbrook in that summary Bench proceeding without any method to record those proceedings.

(14.) Northbrook Council Almon Manson, in the hearing held on January 7, 2002 before Judge Cadigan, then verbally[4] moved to dismiss the civil action Hopkins v Northbrook 2001-L-0227 claiming there was resjudicata from the January 2, 2002 judgment. (In subsequent pleadings Manson represented the federal issues as having been raised and adjudicated, and that Hopkins had appealed Judge Shiffman's decision on January 23, 2002. Opinion, October 16th, 2002. See R.A. C000092.)

(15.) While Hopkins was appealing this decision of Judge Shiffman, Hopkins was not permitted to move his mobile home without paying the attorney fees *of both actions* by verbal order of Judge Shiffman on February 25, 2002. *Northbrook requested the title from the Court, and Hopkins refused,* and while Hopkins mobile home was kept in the park pursuant to Judge Shiffman's verbal order, Potts and Northbrook park management stripped the home of its furnace, washing machine and dryer, water heater, stove, refrigerator, electrical outlets, ceiling fans, leaving the home an empty shell full of Garbage, and utterly uninhabitable without paying thousands of dollars in repairs, resulting in total loss of their property

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[4] Had Manson filed a paper motion, Hopkins could then have filed a motion to vacate *due to the proof of the conspiracy.*

and a complaint of Judicial misconduct being filed against Judge Shiffman and the Court of Appeals. (R.A. C000320-321) **(16.)** On November 17, 2003, 30 days after denial of Hopkins first petition of Certiorari, (S.R.A.C00249) Hopkins discovered that Hopkins v Northbrook had been dismissed without notice on August 28, 2003 by order of Judge Cadigan.

(17.) Hopkins brought an action in the Federal Courts under Title II of the ADA, and 42- U.S.C. -1983 on December 8, 2003, R.A. C00197 Index lines 4-9. The District Court dismissed stating *Hopkins only recourse was a petition for relief in the state courts*. Hopkins filed a rule 59 Motion to reconsider, Relief was denied on April 20, 2004, that Court declaring the action was frivolous and threatened sanctions. R.A. C000188-215 and 223-226.

(18.) Hopkins filed joint petitions for relief in the state court on May 20, 2004. Judge Shiffman, when apprised of his part in a federal civil rights conspiracy violation, exercised the right to remain silent, choosing not to confirm or deny the issues of federal civil rights violations in the petitions. (R.A.C00498-504).

(19.) The 2-1401 petitions were then denied. Hopkins appealed, and moved to consolidate the two actions so as to straighten out this conflict of state and federal law and the fraud upon the court.

(20.) Hopkins appeal was found frivolous and Hopkins was sanctioned for petitioning for relief and then appealing that denial based on the District Courts judgment denying a rule 59 motion.

-REASONS FOR REVIEW-

INTRODUCTION

This cause concerns issues of Federal law in the state courts that were dismissed without a hearing on the merits under color of resjudicata and deprivation of property, both as a result of a conspiracy to violate civil rights, an issue that could not be raised and addressed in Hopkins first appeal to this Court, (in re; *Hopkins v Northbrook*, No. 03-5882, Cert denied Oct 15, 2003).

It is a matter of record that Northbrook has used state law and courts to confiscate Hopkins mobile home while creating a defense to Hopkins prior filed civil action under color of 2-619(a)(4).

I*t is a matter of record that* it was not known by Hopkins until after October 15, 2003 that the federal and state civil action had been dismissed on grounds of resjudicata on August 28, 2003-but no notice was given, and thus it could not be appealed, which is both a denial of due process and of the 1st Amendment.

It is a matter of record that the foreseeable and obvious end result of Northbrook's action in the state court has resulted in state law and judicial policy circumventing and *superseding state and applicable federal laws intended to protect disabled mobile home park tenants*, in conflict with EX PARTE YOUNG, 209 U.S. 123 (1908), and Silkwood v Kerr-McGee Corp. 464 U.S. 238 (1984).

The state Court of appeals treatment of this case is grounds to justify this U.S. Supreme Courts intervention for the protection of civil rights that

are established by the Constitution and Federal law because these laws are being denied any force and effect by the state courts on the basis of state law rules and a policy that has *clearly invalidated the constitution itself*, see Silkwood v Kerr-McGee Corp. 464 U.S. 238 (1984), Screws v. United States, 325 U.S. 91 (1945), Tumey v Ohio, 273U.S. 510, *Fidelity Fed. Sav. & Loan Assn.* v. *De la Cuesta*, 458 U. S. 141 (1982), and Tennessee v Lane, 539 U.S. 941 (2004).

-Arguments in support -

{1} A *Lack of due diligence by the state courts has created an indisputable Denial of Due Process, and has resulted in a violation of the supremacy Clause, which the State Courts claim is not proper grounds for relief under 2-1401(f).*

Issues of federal law are supposed to be supreme in any proceeding, and thus can only be raised in a state court proceeding *as part of a complaint*, (see Testa v Katt, 330 U.S. 386 (1947) and Caterpillar Inc. v. Williams, 482 U.S. 386, 392 (1987).

The facts of these two cases *combined* clearly show that Northbrook was a defendant in a federal and state law civil action in the state court because of the operators intentional violation of the Mobile Home Park Act- (which this Court has already found was sufficient to protect tenants rights "*if adequately enforced*", see Soldal v. Cook County, Ill., 506 U.S. 56 (1992)).

These state law rights however *are not actually viable*, as shown here by the fact that Northbrook was freely able to create a cause of action under

the Forcible Entry and Detainer act by the simple expedient of willfully violating the park act *in deliberately corrupting the terms and conditions of the lease*. (S.R.A.C00059).

Hopkins has pointed out to the state Courts that this is conduct *that is clearly forbidden* by the state's Legislature under 765 ILCS 745/1 and 745/6 of the Mobile Home park act, (*which is supposed to regulate these transactions,)* as well as by the Consumer Fraud Act 815 -ILCS 505/2, and the Federal laws under the Fair Housing Act *42-U.S.C. Sec. 3602*, and the ADA, 42-U.S.C. Sec. 12181. This deliberate and calculated violation of state (and federal law) by Northbrook et all *is actually due to the fact these laws are unenforceable because* under Forcible Entry and Detainer, and extant case law rules, (a) *Violations of state (and federal laws) by a landlord are not germane* to the question of the "right to possession", see People v Evans, 163 Ill. App. 3d 561, 516 N.E.2d 817 (1st Dist 1987) and; (b) *A lease is not* required in any case under Forcible Entry to be valid before it can be terminated by its "own limitations", see Rosewood Corporation V. Fisher 263 N.E.2d 833, (which should be noted is a judicial policy that prima facie *undermines the intent, purpose, and enforceability of the Mobile Home park act, see art 1 and 6)* and is thus a judicial usurpation of the intent and purpose of state law that is contrary to the will of the legislature.

Federal law has been treated the same way even though it is well known that a disabled person

can only raise their federal claims in the state courts in a complaint, see Caterpillar Inc. v. Williams, 482 U.S. 386, 392 (1987), *and it is equally well known that all such federal claims, while superior,(in re Silkwood), cannot be raised at any time in any way* that is a *defense to a state court action*, see the comity rule set forth in re Holmes v Vornado, 534 U.S. 1016 (2001).

It must be understood that just like Northbrook has in this case, *any landlord can freely use this state law action to preempt under color of resjudicata these prior state and federal causes of their tenants* if these actions have been brought in a state Court under the Parrat rule, leaving these tenants constitutionally disenfranchised, see Carpenter v Mobile World Inc, 194. Ill. App. 3d 830,839 551 N.E.2d 724,729 (1990), quoting from the Mandate of Appendix B, page 34; "*Thus, by holding a trial on the merits, the courts and the parties have already borne the burden of litigation, and thus the issue is addressed in the subsequent trial.*" There is no reference to subject matter jurisdiction.

It should be noted that the Appeals Court had *negligently refused* to take Judicial notice of the pending Federal laws at issue in the prior cause, see Osborne v. Ohio, 495 U. S. 103, 122-125, with the Appeals court admittedly stating; "*we note the record is insufficient as to this issue because the defendants failed to include a complete copy of the complaint from the other action.*" appendix b page 34.

It is pointed out that what the state Courts had demanded as a condition for Hopkins to receive judicial notice on these pending federal claims in their first Appeal, *Hopkins was actually forbidden from doing under the comity rule as this would have been "constructively raising" Hopkins federal issues as a defense to the state action*, see in re; Holmes v Vornado, 534 U.S. 1016 (2001).

Hopkins clearly did not violate the comity rule by attempting to raise federal claims as a defense, thus these issues were properly raised only by Judicial Notice, in re Osborne v. Ohio, 495 U. S. 103, 122-125..

The Appeals Court, having failed to take proper judicial notice of the pending federal claims, has stated that Northbrook's separate action under 735 ILCS5/9-102, et seq, (while omitting that the forcible entry action lacked any *subject matter jurisdiction* over the federal and state law issues) was a resjudicata bar to the civil action prior filed in a state court between the same parties under 2-619(4)(a), which although contrary to this U.S. Supreme courts rule against using ones rights to prevent others from the exercise of their rights, see in re Nebbia v New York 291 U.S. 502 (1934), it *is nonetheless considered an accepted state court practice* when it comes to landlord tenant actions.

This "policy" is clearly "pretense due process" that has been established by the state Courts in all Landlord tenant cases- even though it is known to be based on a limited state law proceeding that is admittedly lacking due process,

see Bank of Belleville v. Stidmire 119 Ill. Sup. 3d 73 456 N.E. Ed 175 74 Ill. Dec. 673 (5th District 1983).

It should be noted that the appeals Court, when confronted on appeal by the records showing the facts of Hopkins compliance with the Comity rule that were claimed to have precluded Hopkins from raising these federal and state law claims in the prior proceeding, and *that subject matter jurisdiction is essential for due process* that *the Court should have diligently noted* in the first appeal *but had negligently had failed to do so*, has shifted and "restated' their position, see Appendix C page 49; "*The proper course of action for Hopkins would have been to timely appeal the circuit courts dismissal of their civil action, raising each of the issues they submit in their 2-1401 petition.*" This statement is arbitrarily unfair as it "omits" the rather obvious *fact* that that the record shows clearly that Notice of the dismissal *was never served upon Hopkins* as a matter of Illinois Supreme court policy that would otherwise would have allowed them "to timely appeal." *There was no notice ever given-the Court of Appeals knew that!*

Therefore, was Hopkins denied due process?

Furthermore, the statement of the appellate Court cited above cannot actually be reconciled with that state courts policy that is stated in the order in the following statement; quote; "*a reasonable attorney would not have filed a 2-1401 petition for the dismissal of the civil action having*

"twice" been put on notice that the issues sought to be raised were barred by resjudicata...

The order is clearly contradictory on this because even if notice had been timely served and the appeal taken, the court seems to *admit* it would have been "an exercise of futility" due to that Courts admittedly *finding the Forcible Entry action to be "resjudicata"* to the prior federal claims, this being implicit as the Court asserts that the claims were frivolous, quote; "*..the issues sought to be raised were barred by resjudicata..*" Appendix C, page 50.

The Order admits that it has been clearly explained by Hopkins to the state Courts that "*Subject matter jurisdiction" is required as a clear matter of due process for any state Court judgment to be held as resjudicata, see* McClellan v. Carland, 217 U.S. 268, 282 (1910), (R.A.C00498-504) *and that such jurisdiction* arises only when a State Court *Plaintiff* raises the federal issue in their state court complaint, see in re Caterpillar Inc. v. Williams, 482 U.S. 386, 392 (1987).

It was also pointed out that these issues of federal law in the State Courts *obviously cannot otherwise be raised or introduced by any State Court defendant on a motion to dismiss, by answer, or by a counter claim in any defense to a state law action* under the comity rule.

Hopkins had clearly explained that this comity rule exists because of the primacy of federal law, *which preempts any state law*, see in re; Silkwood v Kerr-McGee Corp. 464 U.S. 238 (1984), and

Free v Bland, 369 U.S. 663, and thus the rule acts to *protect the States right to enforce their own laws in their own Courts*, see in re; Holmes v Vornado, 534 U.S. 1016 (2001), by barring the raising of issues of federal law *except by means of a state court complaint*.(R.A.C00498-504).

This state right to enforce their own laws in their own courts does not confer upon the State courts *the right to disregard the constraints of the Constitution,* see in re Bank of Nova Scotia v. United States, 487 U.S. 250, 254-255 (1988) by invalidating the force and effect of applicable federal law under color of state court resjudicata, see in re ALDEN V. MAINE, 527 U.S. 706 (1999), which was known to be prohibited conduct, in re; Screws v. United States, 325 U.S. 91 (1945), and Powell v Alabama, 287 U.S. 45 (1932). (R.A.C00498-504).

Hopkins has indisputably raised all of the above *federal law and due process issues. What is interesting is that* these claims are ambiguously declared by the 4th District Court of appeals *to be not in good faith*, and that this *bad faith in raising these* (federal) issues has "justified" severe sanctions against Hopkins and counsel, Appendix C page 51; *...the courts declined to impose monetary sanctions because Hopkins were pro-se. However it is clear that this generous approach has not stopped the Hopkins from engaging in frivolous litigation against Northbrook."*

These statements as to Hopkins engaging in *"frivolous" litigation are* allegedly in reference to Hopkins federal law issues in these state court proceedings-(R.A.C00498-504)- proving *prima facie* that Federal laws in the State courts of Illinois *are intentionally being denied force and effect* in the state courts in regards to landlord tenant.

This is contended to be judicial protectionism of special interests that is in conflict with the Supremacy Clause, see West Lynn Creamery v. Healy, 512 U.S. 186 (1994), and shold be stopped by this court as this is state conduct that is *clearly* undermining the U.S. Constitutions authority in Illinois to determine *what is proper national policy as it should be applied to all the disabled citizens living in Illinois,* See Associated Industries of Missouri v Lohman, 114 S. Ct. 1815, 128 L. Ed. 2d 639 (1994).(*States cannot delegate the power to violate the constitution to its Courts as this is a power they do not have.*)

{2} Judicial participation in a conspiracy.

According to the 4th District Court of Appeals, a second separate action under color of 735 ILCS 5/9-102, et seq, by a defendant landlord, does not constitute in any case "a violation of 42-U.S.C.§1983" when the judgment thereafter becomes a resjudicata bar to a prior filed federal action in the state court because such an action under the Forcible entry act is one that is permitted under state law, thus the §1983 claim is "frivolous", see appendix c, page 49; quote; "..,

including the suggestion that the state courts have conspired to violate Hopkins federal due process rights under 42-USC§1983."

This Court needs to address this issue, as it is believed to be not unfair *in this case* to claim the state courts were a party, either voluntarily or involuntarily, to a conspiracy by a private business to violate civil rights, in re Collins v Harker Heights, 503 U.S.115 (1992) when the official conduct concerns state judicial officials who thus should have known that *they were acting outside the limits laid out by the constitution,* see also Washington v. Davis, 426 U.S. 229, 239-248, in their allowing the "*private use of challenged State procedures with the help of State Officials*" to violate civil rights see Lugar v Edmondson Oil Company Inc, 457.U.S. 922, and Oklahoma City v Tuttle, 471 U.S. 808.

Hopkins points out that 42-U.S.C.§1983 actions arise from actions under state law that violate Civil rights (*which include the protection of property under the 4th Amendment*), see Wilson v Garcia 471 U.S. 261 (1985), as; (1) the deprivation must be caused by the exercise by a party *of some right or a privilege that is created by the State*, and; (2) the party charged with the deprivation must be a person *who may be fairly said to be a state actor* either because he is a state official, *or is a private party who has obtained significant aid from State Officials.*

As was carefully explained to the State Courts in the petitions for relief, and appeal brief, *the State Courts had been misled by Northbrook's misfeasance under a defective law,* which created due process grounds for relief as 42- U.S.C. §1983 does not require the state official(s) to be *intentional* conspirators, See Collins v Harker Heights, 503 U.S.115(1992).

The Appeals Court refuses to admit however that Northbrook has done anything wrong when the facts show that Northbrook did obtain a judgment in a state court forum that is contested as to it's constitutional validity because *Northbrook did not have to face at any time any of Hopkins federal and state law issues,* and thus was able to obtain from the State's "judiciary" "a state court judgment" that has became a shield under state court resjudicata to all prior filed state and federal claims action, and in the process, the State Courts have allowed Northbrook to confiscate Hopkins property, a mobile home worth $6.000. (This type of "*confiscation*" is *a form of grand theft that was not covered by insurance*- making Hopkins a "crime victim" who is *without any protection of law because* the state Courts were used instead of a gun). *This type of conduct is an abuse of judicial independence that gives all courts a black eye, justifying public distrust and contempt.*

The State Courts *as institutions* thus cannot be allowed to be "exempt" in such a case as "state actors", (and nothing shows that the constitution or congress had ever intended that state courts actions

created by the willful misuse of state law by private parties to violate civil rights ever should be absolutely immune as to "to creating state liability" under 42-U.S.C.-1983, based on Pierson v Ray 386 U.S.547 (1967) and Marshalls dissent in re Briscoe v Lahue, 460 U.S. 325 (1983)). Northbrook's action was without question a 42-USC-1983 type of violation.

The Court of Appeals has said these conspiracy claims are "frivolous", see appendix c page 46, and are not grounds in any case for relief in the Illinois courts under 2-1401, and has sanctioned Hopkins and counsel for even trying to obtain relief under color of Hudson v Palmer, 468 U.S. 517 (1984), and Tennessee v Lane, 539 U.S. 941 (2004),- thus a paradox now exists *that only this Court can now resolve*, see Norris v Alabama, 294 U.S. 587(1935);

"*When a federal right has been specifically setup and claimed in a state court, it is our province to inquire not merely it was denied in express terms, but also determine whether it was denied in substance or effect.*" Hopkins state and Federal rights have been denied in both substance and effect, requiring this Courts enforcement of the Constitution's Supremacy Clause, citing Justice Cardoza: "*Nothing can destroy a government more quickly than it's failure to observe it's own laws, or worse, it's disregard for the charter of it's own existence.*"

{3} The Illinois Supreme Court no longer requires that the clerks serve notice;

This U.S. Supreme Court has clearly defined that Due process requires written notice be served within a reasonable time to respond, In Re Gault, 387U.S. 1, (1967). The facts show that the state Court *did not serve notice of the judgment dismissing the Civil action*, whether it was by accident *or compliance with Illinois rules*. The record shows that while the Court directly ordered notice was to be served on the defense attorney of record, (i.e. Almon Manson), Hopkins was known to be pro-se, and Hopkins was not ordered to be served notice.

The records prove that *no attempt to serve notice was ever made*. It was pointed out in the Petitions for relief that Due process required this service of notice. Trial Court *denied this Courts rule of law*, claiming that Hopkins instead had "an obligation to check their case for judgments," citing Mitchell v Fiat Allis, 158 Ill. 2d 143, 632 N.E.2d 1010, 198 Ill. Dec. 399, in *which the Illinois supreme court has overruled Gault under a state rule regulating attorney conduct, which Hopkins points out is not in any way pertinent* to the issue as to failing to accommodate a pro- se disabled person without counsel by fair and timely service of notice of dismissal in time to appeal.

The Illinois Supreme Court had this pointed out as well, and *refuses to alter its policy to conform with the prior rule*. By any definition, this state court practice automatically annuls in re Gault.

{4} Hopkins action was timely under 28-USC-1367d:

According to the 4th District Court of Appeals, the dismissal of the prior filed Civil Action on "state Resjudicata" grounds without service of notice in time to appeal, and the confiscation of Hopkins property, did not justify Hopkins taking action against the state courts and Northbrook in the U.S. District Courts under Title II of the ADA and 42-U.S.C. §1983.

Counsel points out that Hopkins 1st Amendment rights had been disposed of by the state's refusal to serve notice of dismissal, see Johnson v Avery, 393 U.S. 483, 485 (1969), along with a due process denial that combined with Northbrook's intentional misuse use of state law to prevent a hearing on the merits through a patently inapplicable resjudicata, see in re; Nebbia v New York 291 U.S. 502 (1934) and McClellan v. Carland, 217 U.S. 268, 282 (1910), was clearly elements of a conspiracy by a private business to use the state Courts to violate Hopkins civil rights that had created a federal cause of action in re 42-USC§1983.

Hopkins should have had a constitutional right to a cause of action against Northbrook *in the District Federal courts* under 42-USC§1983, see Mitchum v Foster 407 U.S. 225, 242 (1972).

Counsel points out there was no clear justification that was sufficient to justify to the people as to the District court to be seemingly "*turning its back on the fraud and constitutional*

violations" and thus allowing these 42-USC§1983 violations to go unchallenged. Her response to Hopkins rule 59 motion clearly showed that the District Court had been seriously aggravated by Hopkins claims of conspiracy violations involving her "friends" on the state courts, and that she had made it very clear that any such actions for relief under these claims must be taken to the state courts, not hers-which in a way, Hopkins states she may have been right *because the State Courts deserved the chance to correct their misuse*. R.A. C000188-215 and 223-226.

Thus, while it is reasonably believed the action in the District Court under Title II of the ADA and 42-USC§1983 was of itself valid, (*there is no actual requirement that the federal action must have been valid*), with the dismissal of the action by the District Court with notice by that court *that these claims should be filed in the state courts as a petition for relief*, the merits of the District Court action became immaterial under 28-USC§1367(d), see JINKS V. RICHLAND COUNTY, 538 U.S. 456 (2003).

The petitions in both state court proceedings were thus timely filed when filed within 30 days of the District Courts dismissal. The Court of Appeals however refused to even consider the issue of timeliness under 28-USC-1367d which was raised on Petition for relief and appeal (though the Court made no actual reference to that law).

That Court made a statement the action wasn't timely under state law. (while intentionally omitting the federal law issue, which Hopkins claims is dishonest and appears to be an attempt to avoid review by this Court.)

{5} *RETALITATON for Hopkins opposing discrimination?:* The presiding judge of the Court of Appeals, (Judge Turner,) denied the motion to recuse for cause, and took part in both cases even though he knew that Hopkins had filed discrimination and misconduct charges against the Courts with both the Department of Justice, FBI, and the State Judicial Review Board.

This subsequent refusal to recuse, followed by the excessive use of rules to avoid considering the actual federal law merits at issue in this case, was an exercise of judicial power that was, "in essence", *retaliatory conduct*-it appears Judge Turner was trying to protect his reputation or worse, punish Hopkins for daring to accuse the courts of discrimination and complicity under 1981-and 83.

Hopkins respectfully points out that while any reasonable doubts here *clearly should be resolved in favor of the integrity, competence, and proper performance of official duties*, see in re Bute v Illinois, 333 U.S. 640 (1948), it's argued to be quite a different story when *there is any substantive, if not compelling evidence of improper state court conduct.*

The Appeals Courts "conduct' is therefore *not in this case entitled* to any "*presumption*" of good faith due to the refusal to recuse to avoid any sense of impropriety in the face of a clear conspiracy that has without any doubt *been proven to have been used to defeat the intent and purpose of both state and federal law*, which has corrupted the state courts as defined by this courts rule in re; California Motor Transport, 404 U.S. 512-513. *As Prima Facie evidence of this judicial corruption and retaliation against Hopkins;* (1.) It should be noted that the time for filing a Petition for relief under state law is two years, (unless one takes part of the matter to federal court which suspends the tolling under 28-USC§1367(d).) Hopkins v Northbrook was dismissed on August 28, 2003 *without service of notice*, the District court case was filed December 8, 2003, and dismissed on April 21, 2004, with the petition for relief in the Civil action filed May 20, 2004, *all less than two years after the state court dismissal of the civil action.* Northbrook v Hopkins entered final judgment on January 2, 2002. The Statute of limitations *would have expired on January 2, 2004* except for the federal action filed in December/03.

A reasonable interpretation of 28-U.S.C.§1367(d) supports the application of this federal law as to the issue of the timeliness of these state court petitions for relief. The 4th District Court *refused to even consider this issue, stating that Hopkins had not acted timely with due*

diligence as a matter of state law(while making an ambiguous reference to tolling) in filing their state court petitions for relief as to the Civil action. The 4th District Court instead has declared that Hopkins federal based issues and claims (as to the denial of due process) *were frivolous*, even though based in good faith on this Courts holdings, and has struck the Appellants brief that was proving these federal law violation claims for the "*implausible*" reasons very clearly shown hereafter as follows:

Ill. Sup. Ct. Rule 341 (a) states Brief Page Limitations "shall each be limited to 50 pages *if printed, or 75 pages if not printed."* and Ill. Sup. Ct. Rule 344(b), Form of Briefs and Abstracts states: "If printed, the brief shall be on paper 6¾ by 10 inches in type not smaller than 11 point. Footnotes are discouraged. *If not printed, the brief shall be legibly and neatly produced on paper 8½ by 11 inches..."* The 4th District Court of appeals has obviously rewrote the law for the benefit of Northbrook, contrary to the public's best interest that the Illinois Supreme Court ignored in that the 4th District Court has claimed that Hopkins brief was a printed brief on 8 ½ by 11 inch paper of 69 pages which had supposedly exceeded the length permitted of 50 pages.

That finding is contrary to the rather all too obvious fact that a brief that is made on 8 ½ by 11 inch paper would not be a printed brief, and only physically match the definition for a nonprinted brief -whose page limits are 75 pages, but the

Court has "disagreed", quote; "*Hopkins has cited no authority for this novel interpretation of rule 341(* and we are not persuaded by their argument." Appendix C, page 42. The Illinois Supreme court declined making such authority.

(b) *Next*, The Court "attacked" Counsels use of footnotes-which are discouraged in only one form of brief, *but are not barred in either of the two types. It should be noted that this was a combined appeal of complexity* due to issues of federal vs state law, clear fraud, perjury and misfeasance *that fairly must be pleaded with particularity.*

Counsel was only using the Footnotes for clarity of the facts and law linking the two cases and merging of the issues. If the brief was in fact "confusing" because of this, the Court properly should have ordered amendment *because of the importance of the federal issues in this controversy.*

The brief was not all that confusing *to any reasonable person, it was only found so and rejected because* the 4th District Court *refused to accept the accurate* issues of federal law, fraud and misfeasance *raised in the combined appeal* which if true, proved an unconscionable error, in re Bennis v. Michigan, 517 U.S. 1163 (1996).

It is apparent that court *unwisely* went looking for Hopkins "violations" of the rules to justify their refusing to hear the "federal" merits, thus while Hopkins may have made mistakes, as maybe did counsel, nothing warranted that Court ignoring the facts and issues.

That Court has *granted sanctions for Northbrook* in the face of facts that show indisputably that Northbrook has used the law to rob a disabled person, and were in blatant violation of other state and federal laws. In the light of the very real "conspiracy issues' that has set the constitution at naught, this type of conduct of the state Court of Appeals is contrary to both the intent and purpose of constitutional "due process", see in re Degan v United States, 517 U.S. 820 (1996).

- CONCLUSION-

Something is very clearly wrong with any state court that thinks its legitimate use of the courts for a Park operator to act under color of law to confiscate a disabled person's property and deny the right to be heard. The Courts refusal to scrutinize this case indicates the Court may have been involved in something that had to avoid scrutiny in order to succeed. It cannot be justified that just because Hopkins were disabled tenants in a state judicial system *where clearly the state Courts deny that any tenants have any rights*, that these federal rights should be denied, see Hopkins first Petition for Certiorari, Hopkins v Northbrook 03-5882. (cert. denied October 15, 2003).

Federal laws *and supposedly protected civil rights*, (as defined as the rule of law by this Court,) mean absolutely nothing if they cannot possibly be enforced in the State Courts. This case proves that if brought in the state court, they cannot be enforced in Illinois, the Forcible Entry and Detainer act stands as bar.

It defies the meaning and intent of the Constitution itself when a private business can freely use the state courts to rob a disabled person, followed by a subsequent state court judgment "*to cover it up*" by state judicial officials who, either voluntarily or involuntarily, had participated in this conduct that so obviously usurps the State and federal rights of *the real injured party without the opportunity to be heard.*

Hopkins prays that this U.S. Supreme Court shall grant certiorari, or whatever Equity relief Per Curium this Court finds to be appropriate to these facts and circumstances.

OATH AND AFFIRMATION

We affirm that the foregoing is true except as to statements made upon information and belief, and as to those, We believe them to be true. Witness our hand under the penalties of perjury, this 27 day of Feb 2007

Glenn Hopkins, Glenn J Hopkins

Cindy Hopkins Cindy S Hopkins

By their attorney: William Shaffer

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Appendix A:

Northbrook Mobile Home Park Plaintiff respondent

v- 2001-LM-2161

Hopkins-Defendant Petitioner

Dismissal order of Judge Hall, issued January 12, 2005; "Plaintiff in Court by Attorney Nicholson. Defendant in Court in person and by Attorney Shaffer. Although the Court feels that it has lost jurisdiction due to the time that has elapsed since the judgment, even assuming that Defendants appeal tolled the time, the Court will address Defendants issue. Under Tennessee v Lane, a disabled person must receive modifications to allow him or her to participate in the judicial process, but only when the disabled person is otherwise eligible for service. In this case, no litigants is given the right to a court reporter, and therefore, a brain damaged person would also not have that right. That slippery slope would lead to the right of an attorney in civil cases for people with limited intellectual abilities. While that would not be a bad idea, no such right presently exists. In addition to the reasons stated above, defendants Motion for Relief from Judgment is denied as moot in that Defendant does not wish to return to the mobile home from which he was evicted[5]. He requests an award greater than $50.000 from the State of Illinois for denial of due process and /or violations of the American with Disabilities act, However the state is not a party to this case, and this Court would not have jurisdiction over such a matter. Motion denied, cause stricken."

January 24, 2005; Called on objection to ex Parte Communication (Motion to Vacate Judgment). Motion denied. The Court cannot recall if a request was

[5] Court failed to note Hopkins home had been destroyed.

made by Plaintiff to provide case law as to jurisdiction or whether such a request was granted, but the question is irrelevant in that the Court denied Hopkins motions on its substantive merits, not on Northbrook's argument as to lack of jurisdiction. Notice to be given by clerk to attorneys."

Hopkins, et all
Plaintiff petitioner
v. 2001-L-0227
Northbrook et all.
Defendant respondents
February 28, 2004

-ORAL FINDING OF JUDGE CADIGAN-

"Hopkins cannot obtain relief under 2-1401 from the States failure to serve notice of judgment that would have allowed appeal as a matter of Illinois Supreme Court policy because Hopkins had the duty to check his case for judgments. Whatever the merits of Hopkins Federal issues, I find since Judge Shiffman has already found for Northbrook, this would be relitigating the same issues- I consider his claims are all barred by resjudicata. Hopkins ADA claims may have merit but the State is not a party to the action. I am granting sanctions that bar Hopkins from any further filings in this matter before this Court without leave of Court, Northbrook is instructed to prepare such order."

Appendix B.

Mandate 4-02-0085

4th District Appellate Court of Illinois

Northbrook Mobile Home park, Appellees

V

Glenn and Cindy Hopkins, Appellants

2001-LM-2161, Judge Stuart Shiffman

before Judges: J. Turner, J. Knecht, J. Cook

Rule 23 Order dated October 18, 2002.

In November of 2001, Plaintiff Northbrook Mobile Home community corporation, filed a complaint for forcible entry and detainer against the defendants Glenn and Cindy Hopkins. Defendants filed a motion to dismiss asserting the cause should be dismissed under{1} section 2-619(a)(3) of the code of civil procedure (code) (735-ILCS-2-619(a)(3) (West 2000) because defendants had filed a complaint against Plaintiff based on the lease between the parties, and {2} section 2-615 of the Code (735-ILCS-2-615 (West 2000)) because (a) the lease was void, (b) plaintiff did not properly serve defendants with notice. In December, 2001, the trial court denied defendants motion. After a January 2002 hearing, the trial court found in favor of plaintiff. Defendants appeal, contending that the trial court erred in denying defendants motion to dismiss, We affirm.

I Analysis

Plaintiff asserts this Court cannot address the merits of defendants arguments. We agree. This Court has held that where the issue contained in a denied motion for summary judgment is then

decided at trial the ruling denying the summary judgment merges in the judgment after trial, and error in the denial cannot be raised on appeal of that judgment, Carpenter v Mobile World Inc, 194. Ill. App. 3d 830,839 551 N.E.2d 724,729(1990). Courts have applied this merger theory to section 2-619 Motions to Dismiss, see in re J.M. 245 Ill. App. 3d 909,919-20, N.E.2d 1345, 1354 (1993). Moreover, we find merger is applicable to denials of section 2-615 motions as well. The rational behind the merger doctrine is that where the evidence has been completely presented to the Trier of fact and subject to cross examination, it would be unjust for the resulting verdict to be overturned on less evidence, that is , evidence obtained only from the pleadings. Paulson v Suson, 97 Ill. App. 3d 326, 325 423 N.E.2d 243,245 (1981). With a section 2-615 motion a court should grant the motion only if no set of facts can be proved that will entitle the plaintiff to recover. Ashley v Snyder, 315 Ill. App 3d 1252, 1255 735 N.E. 2d 887, 900 (2000) At the subsequent trial the Trier of fact determines whether plaintiff proved sufficient facts to allow him to recover. Thus it would be unjust to overturn the judgment of the Trier of fact based solely on the parties pleadings.

Here. The issues raised by defendants in their motion to dismiss were presumably decided at the subsequent trial.

In their answer, defendants asserted improper service of notice and the invalidity of the lease as affirmative defenses.

Defendants suggest the trial court prohibited them from raising those defenses at trial. However, we note defendants did not file a transcript of the proceedings or a bystanders report. See 155 Ill. 2d R. 321, 166 Ill. 2d R. 323. The Appellant bears the burden of providing this court with a record adequate to resolve all issues. *Absent a sufficient record on appeal this court will presume the trial courts ruling was in conformity with the law*, People v Brummatt, 279 Ill. App. 3d 421, 426. 664 N.E. 2d 1074, 1079 (1996).

As to the pendancy of the other action, we note that dismissal under section 2-619(a)(3) of the code in not mandatory, Zurich Insurance Co. v Baxter International Inc, 173 Ill. 2d 235, 249 570 N.E. 2d 664, 670 (1996). The purpose behind section 2-619(a)(3) is to relieve both the courts and litigants of duplicative litigation. Ransom v Marrese, 122 Ill. 2d. 518, 530. 524 N.e. 2d 535, 560 (1988). Thus, by holding a trial on the merits, the courts and the parties have already borne the burden of litigation, and thus the issue is addressed in the subsequent trial. *Additionally, we note the record is insufficient as to this issue because the defendants failed to include a complete copy of the complaint from the other action.* Accordingly, we find the issues raised by Defendants in their motion to dismiss merged with the subsequent trial and cannot be raised on appeal.

For the reasons above, we affirm the trial courts judgment. Affirmed, Turner*, J, with Knecht and Cook, con.

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-JUDICIAL NOTICE-

NOTE: in re Appendix C: The facts as *"restated"* by the following appeals Court rule 23 order in support of their contentions in the order, **omit *the following serious omissions*** referenced herein for Judicial Notice in that: (1) It is omitted by the tribunal that Hopkins was not able to raise his federal claims as a defense to the Forcible entry and Detainer action based on known federal pleading rules, and; (2) It is omitted by the tribunal that Hopkins was not allowed to raise their state law claims as a defense to the action of forcible entry and Detainer as a matter of state court policy in re People v Evans, 163 Ill. App. 3d 561, 516 N.E.2d 817 (1st Dist 1987,) and; (3) It is omitted by the tribunal that Hopkins Civil action was dismissed on the basis of that Forcible Entry and Detainer action being considered to be Resjudicata despite the fact of law that Hopkins could not raise the federal claims as a defense in that Forcible Entry proceeding, see Holmes v Vornado, 534 U.S. 1016 (2001), (nor in the subsequent appeal as issues not raised in trial

court are not available for review on appeal,) and; (4) It is omitted by the tribunal that Hopkins was never served notice of the Circuit Courts dismissal of the Civil action within time to be able to file an appeal. *This is *Certified as raised on motion to reconsider and Petition for appeal as a matter of right to the Illinois Supreme Court.*

Appendix C:

ILLINOIS APPELLATE COURT OF THE 4TH DISTRICT; Hopkins v Northbrook; NO.04-05-0435
Northbrook v Hopkins-; NO.04-05-0186

Glenn J. Hopkins,	) Appeal from the
Cindy S. Hopkins	) Circuit courts of
Appellants	) Sangamon County
v.	)
Northbrook Mobile Home Park	)No. 2001-L-0227
Corporation, Sheila Cottrill,	) Judge Cadigan
Ron Cottrill	) No. 2001-LM-2161
Appellees	) Judge Hall*
	) Judge Shiffman.*

Rule 23 Order of February 21, 2006

McCullough J, with *J. Turner*[6] PJ. and J Appleton.

Plaintiffs, Glenn J Hopkins and Cindy S Hopkins appeal from the January 12, 2005 denial of their petition for relief from judgment in case 01LM2161 and the February 23, 2005 denial of their petition for relief from judgment in case 01L0227. For the reasons which follow, we Affirm. The origin of these two cases dates back over four years. Although both parties are well aware of the facts, a brief recitation of the history of these cases will be presented to highlight the extent of the litigation involved.

On August 16, 2001 the Hopkins filed an amended complaint against Defendants Northbrook Mobile home park Corporation and Sheila and Ron Cottrell,(Northbrook), alleging

[6] This judge had participated as the author of the document in appendix b, and had refused to recuse himself.

various violations of the Mobile home Landlord and tenants rights act, (765-ILCS-745/1 et Seq. (west, 2000)), the consumer fraud and deceptive business practices act, (815-ILCS-5/19-101 et Seq, (West 2000) and the Americans with Disabilities Act of 1990, (42-USC-12101 (West _____)) (Case No. 01L0227, hereinafter the Civil action).

On November 2, 2001, Northbrook filed a complaint against the Hopkins under the Forcible Entry and Detainer act. (735-ILCS-5/19-101 et seq, (West 2000)) (Case No 01LM2161, hereinafter the forcible entry and detainer action) alleging the Hopkins were in illegal possession of certain real estate upon which their mobile home remained. On November 16, 2001, the Hopkins filed a motion to dismiss instanter, arguing all issues in controversy in the forcible entry and detainer were matters in contention in the Civil suit. On December 20, 2001, after a hearing, the Hopkins motion to dismiss instanter was denied. On January 2, 2002. after a trial, the circuit court found in favor of Northbrook and issued an order to vacate. On January 23, 2002, the Hopkins filed a notice of appeal, arguing the Court erred in denying their motion to dismiss. On October 16, 2002, this Court Affirmed the circuit courts judgment, holding the issues raised in the Hopkins motion to dismiss merged with the subsequent trial, and thereafter could not be raised on appeal.

Northbrook Mobile Home Community Corporation v Glenn J Hopkins and Cindy S. Hopkins, Ill App 3d__,__ N.E.2d __, No; 4-02-

0085 (2002) (unpublished order under Supreme Court rule 23), Leave to Appeal denied. *According to Hopkins, this case has been appealed to the United States court of Appeals*[7] *and the United States Supreme Court.*

On August 11, 2003, a hearing was held on Northbrook's motion to dismiss the Hopkins civil action pursuant to section 2-619 of the code of civil procedure (the code). Neither a transcript of this hearing nor a bystanders report appear in the record. On August 28, 2003, by docket entry, the circuit court granted Northbrook's motion to dismiss. Thereafter, on October 27, 2003, the Hopkins attempted to transfer the Civil action to the U.S, District Court. On November 13, 2003, the District Court, by docket entry, declined to hear the Hopkins case stating it lacked the jurisdiction to do so as only defendants can remove a state case to federal court. Later, Hopkins unsuccessfully attempted to bring an original action in the federal court based on the underlying facts of the civil action.

On March 19, 2004, the District Court found the Hopkins claims were barred by resjudicata[8]. On April 19, 2004, the District Court declined to impose monetary sanctions on Hopkins because they were not represented by counsel. However the Court remarked that the Hopkins had brought two meritless actions in the District Court against

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[7] Hopkins has no idea of how they reached *that conclusion*!

[8] The Court omits that Judge Scott stated Petitions for relief should be taken in the state courts on these claims.

Northbrook, and warned Hopkins that it would not hesitate in imposing sanctions if they filed any further actions against Northbrook in the District Court.

On May 20, 2004, the Hopkins filed Petitions for relief from judgment pursuant to section 2-1401 of the code (735-ILCS-5/2-1401 (West 2004) in both the Civil Action and the Forcible entry and detainer action. Each Petition was substantively similar and argued that they were entitled to relief under section 2-1401 because (1) *Glenn was entitled to preferential treatment based on his alleged disability in that he was entitled to a court reporter, and written notice of the Courts decision,* the right to counsel and the right of compensation from the state for violating his due process rights, (2) the trial court judges and justices of this court made serious errors in the interpretation and application of federal law, and (3) the Forcible entry and detainer act is unconstitutional as it conflicts with the commerce clause and the Americans with Disabilities act.

On January 12, 2005, the Circuit Court denied the Hopkins petition for relief from judgment in the forcible entry and detainer action, finding it did not have jurisdiction over the parties because it was filed outside of the two year limitation mandated by section 2-1401 (c) of the code (735-ILCS-5/2-1401(c) (West 2000)). Even so, the court chose to address the merits of the Hopkins petition. The court found the Hopkins claim that Mr. Hopkins was denied the reasonable

accommodation of a court reporter under the ADA Act *lacked merit because a reasonable accommodation must be given only when a disabled person is otherwise eligible for the service, and no litigant is entitled to a court reporter.* Further, the Court denied the petition as Moot in that they did not wish to return to the mobile home from which they were evicted[9], and they sought damages in excess of $50.000.00 from the state of Illinois who was not a party to the proceedings. The Hopkins motion to vacate was denied on January 24, 2005. They filed a Notice of Appeal on February 23, 2005 and an amended notice of appeal on March 10, 2005.

On February 23, 2005, a hearing was held on the Hopkins petition for relief from judgment in the Civil action. *Neither a transcript or a bystanders report of this hearing appears in the record.* Per docket entry , the circuit court denied their petition and granted Northbrook's motion for sanctions. The court directed Northbrook to prepare a written order to this effect. A written order was not prepared and the Hopkins appealed the denial of the Petition the same day. On April 23, over objection, this court dismissed the Hopkins appeal as premature. On April 25, 2005, a written order was signed by the circuit court. The court denied the petition for relief from judgment finding they had stated no basis upon which relief could be granted. The court struck from the petition any

[9] The mobile home had been seized and destroyed. Hopkins did not have a home to go back to, unlike Soldol.

claims against the State of Illinois, finding the state was not a party to the proceedings. Further, the Court granted Northbrook's motion for sanctions, *Finding any further filings by the Hopkins against Northbrook arising from any facts, circumstances, or allegations that had been or could have been brought would be for the sole purpose of harassment.* Therefore, they were barred from filing any further proceedings against Northbrook, its owners, officers, directors, agents or employees without prior leave of court. On May 13, 2005, the Hopkins filed notice of appeal. On June 14, 2005 the civil action and forcible entry action were consolidated for the purpose of appeal.

On August 26, 2005, Northbrook filed a motion to strike Plaintiffs-appellants brief and for sanctions. This Court order the motion taken with the case. Northbrook asks this Court to strike the brief in its entirety for failure to comply with supreme court rule 341(a) 's 50 page limitation and footnote requirements. Northbrook also argues the Hopkins brief is *unintelligible* and *incomprehensible*, and *does not address the issues before this court on appeal*. Rather, *Northbrook contends the Hopkins present irrelevant matters not at issue and attempt to reargue matters previously before this court on appeal.* If it is this courts decision not to strike the brief in its entirety, Northbrook requests that we strike that portion of the brief that is in excess of 50 pages and all the footnotes. Supreme Court rule 341(a) provides that appellant and appellees briefs submitted to a

reviewing court shall be limited to 50 pages if printed, or 75 pages if not printed. Official reports Advance sheet no. 21 (October 17, 2001) R. 341(a) eff. October 1, 2001. Hopkins Brief is 69 pages long. In their 17 page response to Northbrook's motion to strike, the Hopkins argue "not printed" briefs under rule 341(a) include briefs typically created on typewriters or computers that are then printed out by a printer, and therefore their brief is "not printed" within the meaning of the rule, and is within the page limitation requirement. *Hopkins has cited no authority for this novel interpretation of rule 341(a) and we are not persuaded by their argument.*

Rule 341(a) states "footnotes, if any, shall be used sparingly." Official Reports advance sheet NO. 21, (October 17, 2001). R. 341(a) eff. October 1, 2001.Rule 344(b) states "Foot notes are discouraged" Official Reports advance sheet NO. 22, (October 27, 2001). R. 344(b) eff. January 1, 2005. Hopkins brief contains 32 footnotes. 16 footnotes contain argument that should have been presented in the body of the brief. (see Technology Solutions Co. v Northrop Gruman Corp, 356 Ill. App. 3d 380, 382, 826 N.E. 2d 1220, 1223 (2005), stating substantive arguments may not be made in footnotes.) Five footnotes contain irrelevant information *such as the color of the Hopkins mobile home*[10], the allegation that Judge Shiffman and Glenn are not friends and the fact that Glenn *is a very good writer and inventor and* ***is currently***

[10] This concerned one of many elements of perjury

writing a book about his experiences with these cases. Three foot notes contain inflammatory accusations not supported by the record including Hopkins assertion that it has become and increasingly common practice for Illinois attorneys to abuse their position of trust with the court and to intentionally misrepresent fact, law, and testimony. Such use of foot notes is not necessary and can hardly be described as sparingly used. In their reply to Northbrook's Motion to strike, the Hopkins argue Northbrook must establish that the footnotes were unduly prejudicial to their defense. Again, the Hopkins cite no authority for this assertion, and our research discloses no such requirement. **Illinois *Supreme court rules are not aspiritional goals***, *and are to be followed regardless of whether an opposing party has suffered any prejudice*. In addition to the violations of rule 341 Northbrook points out, we note these additional violations; **the points and authorities are not presented** as required by rule 341 (e)(1) Official Reports advance sheet NO. 21, (October 17, 2001). R. 341(e)(1) eff. October 1, 2001), *in that no page reference numbers have been included*; **the statement of issues presented for review** are violative of rule 341(e)(3) (Official Reports advance sheet NO. 21, (October 17, 2001). R. 341(e) (3) eff. October 1, 2001.) **in that they are unclear and too detailed**, the statement of jurisdiction does not include page references to the record on appeal in violation of rule 341(e)(4) (ii) Official Reports advance sheet NO. 21, (October

17, 2001). R. 341(e) (4)(ii) eff. October 1, 2001. The standard of review section of the brief violates rule 341 (e)(3) in that it is 12 pages long[11] and accounts for nothing more than a recitation of irrelevant facts, *alleged violation of Hopkins due process rights and conspiracy theories, including the suggestion that the state courts have conspired to violate Hopkins federal due process rights under 42-USC-1983;* and case citations have not been set forth as required by rules 6 (145 Ill. 2d R 6) and 341(e)(7) Official Reports advance sheet NO. 21, (October 17, 2001). R. 341(e)(7) eff. October 1, 2001, in that only case names are provided throughout the brief.

The purpose of the supreme courts rules is to require parties to proceedings before a reviewing court to present clear and orderly arguments so that the court may properly ascertain and dispose of the issues involved. (Citation) When an appellants brief fails to comply with the rules, this court has the inherent authority to dismiss the appeal for non compliance with its rules (citation.) Collier v Avis Rent a Car System, inc, 248 Ill.App. 3d. 1088, 1095, 618 N.E.2d 771,776 (1993)

The number of violations in the Hopkins brief have made review of the issue on appeal nearly impossible and would easily warrant our striking of their entire brief and dismissing the appeal. Technology Solutions Co, 356 Ill. App. 3d at 381, 826 N.E. 2d at 1222. However, rather than dismiss

[11] This was for background of the fraud

the appeal outright, we will grant Northbrook's motion and strike Hopkins brief.

In their motion to strike, Northbrook also requests sanctions pursuant to supreme court rule 375(b). 155 Ill.2d R 375(b); In relevant part rule 375(b) states: "if, after consideration of an appeal or other action pursued in a reviewing court, it is determined that the appeal or other action was not taken in good faith, for an improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation, or the manner of prosecuting or defending the appeal or other action is for such purpose. An appropriate sanction may be imposed upon any party or the attorney, or attorneys of the party or parties. An appeal or other action will be deemed frivolous *where it is not reasonably well grounded in fact, and not warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law.*[12] An appeal or other action will be deemed to have been taken for an improper purpose where the primary purpose of the appeal or other action is to delay, harass, or cause needless expense. Appropriate sanctions for violation of this section may include an order to pay the other party or parties damages, the reasonable costs of the appeal or other action, and any expenses necessarily incurred by the filing of the appeal or other action including reasonable attorney fees."

[12] Federal law prevailing over state law is not good reason apparently!

In determining whether an appeal is frivolous, an objective standard should be applied. *"The appeal is considered frivolous if it would not have been brought in good faith by a reasonable prudent attorney"*. Dreisilker Electric Motors Inc v Rainbow Electric Co, 203 Ill App 3d 304, 312 562 N.E. 2d. 970,974 (1990).[13]

A reasonable prudent attorney would not have brought in good faith, *an appeal of the circuit courts denial of the Hopkins petitions for relief from Judgment in the forcible entry action and in the civil action for the petitions fail on basic procedural grounds "the purpose of a section 2-1401 petition for relief from judgment is to bring before the circuit court facts not appearing in the record which if known to the court at the time judgment was entered would have prevented the entry of the judgment. (citation)* "to be entitled to relief under section 2-1401, the petitioner must affirmatively set forth specific factual allegations showing each of the following elements by a preponderance of the evidence; (1) the existence of a meritous defense or claim. (2) due diligence in presenting this defense or claim to the circuit court in the original action, and (3) *due diligence in filing the 2-1401 petition for relief.* (Citation) In re Detention of Morris___Ill. App. 3d__,__,__ N.E. 2d____. No. 4-05-0033, slip opinion at 3(December 7, 2005.)

Hopkins have failed to show the requisite due diligence in filing their 2-1401 petitions.

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[13] See Appendix D, and compare.

The Hopkins petition for relief from judgment in the forcible entry action was not timely filed.[14] Section 2-1401(c) provides that the petition must be filed not later than 2 years after the entry of the order or judgment. Time during which the person seeking relief is under legal disability or duress, or the grounds for relief were fraudulently concealed shall be excluded in computing the period of two years." 735-ILCS-5/2-1401(c) (West 2000). *This two year period of limitations is to be strictly construed, Sidwell v Sidwell, 127 Ill. App. 3d 169, 173, 468 N.E. 2d 200, 203 (1984). Pending motions or appeals do not toll this limitation period. People v Caballero, 179 Ill. 2d 205, 211. 688 N.E. 2d 658, 661 (1997).*

Judgment was entered in the forcible entry and detainer action on January 2, 2002. The Hopkins did not file their 2-1401 petition for relief from judgment until May 20, 2004, clearly outside of the two year limitation period*. The Hopkins argument that pending appeals in this and the Civil action tolled the limitations period is contrary to established state law The petition is untimely, and properly dismissed by the circuit court, see Rodriquez v The Sheriffs Merit Comm of Kane co.___Ill2d.___, ___,N.E. 2d __, __, No 100165, slip opinion at 7, January 20, 2005. stating the *reasons given for a judgment or order are not material if the judgment itself is correct, and the reviewing court is not bound to accept the reasons given by the lower court for its judgments.*

[14] The appeals court totally ignores 28-USC-1367, in re Jinks.*

Hopkins did not show due diligence in the filing of their 2-1401 Petition for relief from the dismissal of their civil action. Due diligence requires a petitioner to show that his failure to pursue his petition was the result of excusable mistake and that he had acted reasonably, not negligently. See Dassion v Homan, 161 Ill. App. 3d 141, 145 514N.E.2d 41,43 (1987). A section 2-1401 petition is not intended to relieve a party from the consequences *of his own negligence* or to provide review of an order *from which a party could have timely appealed.* Anest v Bailey 265 Ill. App. 3d 58, 68-69- 637 N.E. 2d 1209, 1216-17 (1994). *The Civil action was dismissed on August 28, 2003. Hopkins did not appeal the circuit courts judgment.* Instead, the Hopkins attempted to remove the civil action to federal court[15]. After the District Court held that it did not have the jurisdiction to hear Hopkins case, they filed an original action in the district court based on the same set of circumstances as the civil action. On March 19, 2004, the District Court declined to hear Hopkins case, holding that it was barred by resjudicata, the same grounds for which the civil action was dismissed in the state court. *It was not until after Hopkins had been warned by the district court against filing any further pleadings against Northbrook that it filed their 2-1401 petition on May 20,* nearly nine months after the dismissal of their civil action by the circuit court.

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[15] This is dishonest-no notice was given of dismissal.

The proper course of action for Hopkins would have been *to timely appeal* the circuit courts dismissal of their civil action[16], raising each of the issues they submit in their 2-1401 petition. Instead they chose to file, in the district courts own words, "two meritless actions in federal court". Unsuccessful in their attempt to bring suit against Northbrook in federal court, the Hopkins sought review of issues that could and should have been raised on direct appeal through their 2-1401 petition[17]. *Such conduct is not evidence of due diligence*, and the circuit court properly denied the Hopkins 2-1401 petition. ***We agree with Northbrook that sanctions should be imposed against Hopkins and their attorney for filing a frivolous appeal.*** It should have been apparent to a reasonable prudent attorney that the 2-1401 Petition for relief from judgment in the forcible entry and detainer action was filed outside of the two year limitation. (see Dreisilker Electric Motors Inc v Rainbow Electric Co, 203 Ill App 3d 304, 312 562 N.E. 2d. 974,975 (1990), imposing sanctions against a 2-1401 petitioner because it would have been readily apparent to a reasonable prudent attorney that the cause of action was barred by a three year statute of limitations.) *The Hopkins and counsels only argument is that the two year period was tolled*,[18] an argument clearly

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[16] no notice of the decision means no knowledge to act upon.

[17] This is indicative of corruption.

[18] 28-USC-1367(d) in re Jinks V. RICHLAND COUNTY, 538 U.S. 456 (2003)

against established state law. (see Caballero, 179 Ill. 2d at 211. 688 N.E. 2d 661, 661 (1997). Further, a reasonable attorney would not have filed a 2-1401 petition for the dismissal of the civil action having twice been put on notice that the issues sought to be raised were barred by resjudicata. (See Singer v Brookman, 217 Ill. App. 3d 870, 879-80 578 N.E. 2d 1, 6 (1991), imposing sanctions where plaintiffs and their counsel were warned by trial court that their litigation might be barred by resjudicata, and finding there was no conceivable basis for the action other than to waste the courts time, generate legal fees, and harass the defendant.) In finding sanctions are appropriate against Hopkins and their attorney, *we note the Hopkins were warned about filing further frivolous litigation against Northbrook on two prior occasions once by the circuit court in ordering the civil action dismissed. And once by the District Court after dismissing the federal action against Northbrook.*

In each of these circumstances the courts declined to impose monetary sanctions because Hopkins were pro-se. However it is clear that this generous approach has not stopped the Hopkins from engaging in frivolous litigation against Northbrook.

Therefore, pursuant to rule 375(b) we order Northbrook to file a statement of reasonable expenses and attorney fees as a result of this appeal within 14 days. The Hopkins and their attorney shall have 7 days to file a response.

This court will then file a supplemental order determining the amount of the sanction that will be imposed on the Hopkins and their attorney.

For the fore going reasons, the circuit courts judgments are affirmed.

MuCullough, j, with Turner , PJ, and Appleton, J. Concurring.